

# United States Court of Appeals

Eleventh Circuit  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

Thomas K. Kahn  
Clerk

In Reply, Give Number  
Of Case and Names of Parties

October 11, 2007

**VIA FACSIMILE**

TO ALL COUNSEL OF RECORD

Re: No. 04-13562 - Melvin C. Jones v. Victor Walker

Dear Counsel:

For the purposes of the upcoming en banc rehearing in the above-referenced case, the court desires for counsel to focus their briefs on the following issues:

1. **In this case was there a clear and unequivocal request to proceed pro se as required in Stano v. Dugger, 921 F.2d 1125, 1143-45 (11th Cir. 1991) (en banc), for assertion of the right to proceed pro se under Faretta v. California, 422 U.S. 806, 95 S.Ct. 2525 (1975)?**
2. **May a defendant's Sixth Amendment right to counsel be waived by the defendant's conduct in refusing to accept the services of the attorney who has been appointed to represent him, even where the defendant insists he does not want to represent himself? Should Marshall v. Dugger, 925 F.2d 374 (11th Cir. 1991), be overruled?**
3. **Assuming the answer to the second question is "yes," is a dangers-of-self-representation Farretta warning a prerequisite to a valid waiver by conduct?**
4. **In light of 28 U.S.C. § 2254(d) & (e), is habeas relief due to be granted in this case?**

Appellant's en banc brief shall be filed in the Clerk's Office in Atlanta by 5:00 p.m., Tuesday, November 13, 2007. Appellee's en banc brief shall be filed in the Clerk's Office in Atlanta by 5:00 p.m., Thursday, December 13, 2007. Any en banc reply brief by the Appellant must be filed in the Clerk's Office in Atlanta by 5:00 p.m., Friday, December 28, 2007. NO EXTENSIONS WILL BE GRANTED. An original and 18 copies of the en banc briefs should be filed (appellant's in blue covers, appellee's in red covers and any reply in gray covers). The parties are expected to insure that all other parties receive a copy of their briefs before the close of business on the day of filing (facsimile, e-mail, etc.). NO TIME FOR MAILING SHALL BE ALLOWED. The filing of an en banc amicus briefs is governed by 11<sup>th</sup> Cir. R. 35-8. All parties are also required to upload the brief in electronic format to the court's Web site as described in 11th Cir. R. 31-5.

**All counsel** are requested to file 16 copies of their original opening panel briefs, record excerpts and supplemental authorities prior to 5:00 p.m., Tuesday, November 13, 2007.

Oral argument will be conducted during the week of February 25, 2008, in Atlanta, Georgia. Each party will be allotted 20 minutes per side for oral argument. Counsel will receive subsequent correspondence regarding the specific date and time of oral argument.

Thank you for your attention.

Sincerely,

THOMAS K. KAHN, Clerk

By:

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